

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil No.
v.)	
)	
CABOT CORPORATION, et al.,)	
)	
Defendants.)	

NOTICE OF LODGING OF PROPOSED CONSENT DECREE
PENDING SOLICITATION OF PUBLIC COMMENTS BY
THE DEPARTMENT OF JUSTICE

The United States of America (“United States”), on behalf of the United States Department of the Interior, the United States Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, through its undersigned counsel, respectfully lodges with this Court a proposed Consent Decree that would resolve all claims asserted by the United States in this civil action, as well as claims asserted by the State of Ohio in a related civil action filed in this district. The proposed Consent Decree is attached hereto as Exhibit A. As discussed below, the Court should not take action on the proposed Consent Decree pending completion of a notice and comment process applicable to the proposed settlement.

1. The United States commenced this action against Cabot Corporation and seventeen other parties pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (“CERCLA”), 42 U.S.C. § 9607, and Section 311 of the Clean Water Act, as amended (“CWA”), 33 U.S.C. § 1321. In this action, the United States seeks to recover damages for injuries to natural resources caused

by past releases or discharges of hazardous substances into, or which migrated into, the lower Ashtabula River and Harbor.

2. The State of Ohio also filed a complaint asserting civil claims for natural resource damages in the lower Ashtabula River and Harbor, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Section 311 of the CWA, and the common law public trust doctrine. *See, State of Ohio, ex rel. DeWine v. Cabot Corporation, et al.*, Civil Action No. 1:12-cv-01099 (N.D. Ohio). The State's complaint asserts claims against all of the defendants named by the United States in this action, as well as claims against the United States Department of Energy, the United States General Services Administration, the United States Maritime Administration, and the United States Department of Defense.

3. A motion to consolidate the above-described actions is pending.

4. Concurrently with the filing of the federal and State complaints described above, the United States is lodging with the Court a proposed Consent Decree that would resolve all claims asserted in this action and in *State of Ohio, ex rel. DeWine v. Cabot Corp., et al.*, Civil Action No. 1:12-cv-01099 (N.D. Ohio). A copy of the proposed Consent Decree is attached hereto as Exhibit A.

3. Pursuant to Department of Justice policy and the terms of the proposed consent decree, the proposed settlement is subject to public notice and comment. The settlement terms include a specific reservation of the right of the United States and the State of Ohio to withdraw consent to the proposed consent decree if public comments disclose facts or

considerations which indicate that the proposed Consent Decree is inappropriate, improper, or inadequate. *See*, Consent Decree, ¶ 88.

4. In light of the public comment process described above, the Court should not approve and sign the Consent Decrees at this time. Instead, the proposed Consent Decree should remain lodged with the Court pending the completion of the public comment process.

5. The Department of Justice will publish in the Federal Register a notice that the proposed Consent Decrees have been lodged with the Court. The Notice will solicit public comment for a period of 30 days.

6. Following the public comment period, the United States and the State will evaluate any comments received, and advise the Court whether they continue to consent to the settlement and support entry of the proposed consent decree.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

Date: May 3, 2012

s/ Steven J. Willey
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Date May 3, 2012

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